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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4666 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R. TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

JINTAL CLINICAL THERMOMETRE PVT. LTD

Versus

GOVT.OF GUJARAT

Appearance:

MR JD AJMERA for Petitioner
Mr.K.P. Raval, ASSTT GOVERNMENT PLEADER for
Respondent No. 1
NOTICE SERVED for Respondent No. 2, 3

CORAM : MR.JUSTICE RAVI R. TRIPATHI

Date of decision: 02/03/2001

ORAL JUDGEMENT

The petition is filed challenging a notice issued
by the Mamlatdar, Wadhvan Taluka received by the

petitioner on 2.3.1993, whereby the Mamlatdar, Wadhvan Taluka has demanded a sum of Rs.13,749.30 towards recovery of land revenue and education cess. The break up of the amount is shown at the end of the notice wherein the amount of Rs.3022.65 is shown as current due while an amount of Rs.6045.30 is shown under the head, "Farti", thus totalling to Rs.9067.95. While under education cess 20 paise as past arrears and Rs.1,500.35 as current dues, Rs.3169.80 under the head of Farti and totalling to Rs.4,681.35 making total demand of Rs.13,749.30.

2. The petition was filed in the year 1993 and a notice was issued on 6.5.1993 returnable on 21.6.1993. The court was pleased to grant ad interim relief in terms of para 15(B) on the condition that the petitioner shall deposit a sum of Rs.13,749.30 within two weeks from the date of issuance of the notice. It was directed that the amount shall be deposited in the office of the Mamlatdar, Wadhvan City. Nobody on the part of the respondents took any pains to file any reply to the said notice issued by this court. The matter remained as it is and subsequently the Mamlatdar's office, Wadhvan issued another letter to the Managing Director of the petitioner company that a notice was given demanding arrears of land revenue against which the present Special Civil Application is filed in the Court. The petitioner was called upon that if you have obtained any stay in the said petition then a copy of the same shall be produced within two days or else, the land taken under attachment will be entered in the name of the Government and that it will be auctioned and the amount will be recovered. It was also stated in the said letter that the upset price of the land in question is determined and that permission is also obtained for entering the land in the name of the government. The petitioner having received said letter dated 4.1.1994 once again approached this Court and amended the petition by producing said notice dated 4.1.1994 on record of the case and by making averments regarding said notice in para 11A and made consequential prayers in para 15AA and BB. This Court on 1.7.1994 on amendment being granted passed an order, which read as under :

"Notice to the newly added party returnable on
22nd July 1994. Further ad interim relief
staying the operation of Annexure 'G' till then.
.. .."

3. This is a classic example where the authorities have taken no pains to see that the interest of the

Government is protected and that the point of view of the Government is presented before this Court. Ultimately, on 5.9.1994 this Court issued rule and ordered the ad interim relief to continue till the petition is heard and finally disposed of. The Court observed in its order that it would be open to the respondents to move this Court for fixing an early date of hearing after they are served so as to give an opportunity to the respondents.

4. This Court is at pains to note that no such application is ever moved by the respondents in this matter. Not only that, after this matter was listed for final hearing on 1.12.2000, it is adjourned from time to time, but the respondents did not care to see that any counter is filed to the present petition. It is under these circumstances that today when the matter is called out, the request made by learned Assistant Government Pleader is declined.

5. Mr. Ajmera, learned advocate appearing for the petitioner pointed out that the notice of Mamlatdar, Wadhvan which was received on 2.3.1993 was replied by letter dated 3.3.1993, a copy of which is produced at Annexure 'D' to the present petition. It was pointed out that there were no dues recoverable from the petitioner for the year 1991-- 92. It was also stated that earlier arrears to the tune of Rs.15,000/-, were paid by Dena Bank on account of a stay against the petitioner and the petitioner was not able to pay any such amount. The petitioner asked the authorities to inform the petitioner as to under what head the amount sought to be levied is demanded. What is more interesting is that by the said letter it was specifically stated that the petitioner is already paying house tax to Surendranagar Municipality with education cess. In that case the property of the petitioner cannot be liable for land revenue and education cess because the said property cannot be taxed twice. The petitioner had also mentioned that if the said amount is sought to be levied under some new law with retrospective effect, then the same is not reasonable. The authority ought to have replied to the said notice. To expect that the authority should have replied to the letter of the petitioner company is too high a hope, in light of the fact that the authority has not cared to respond to any of the notices of this Court, which were issued in the year 1993 and in 1994. Again process of rule was issued in the month of September 1994.

6. In view of the fact that there is no clarification from the authorities about the amount which

is sought to be levied, this amount which is deposited by the petitioner with the Mamlatdar, Wadhvan City is ordered to be refunded to the petitioner. Notice at Annexure 'C' received by the petitioner on 2.3.1999 is hereby quashed and set aside.

7. The petition is allowed accordingly. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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